

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-511-S - ORDER NO. 2001-360

APRIL 18, 2001

IN RE:	Petition of Carolina Water Service, Inc. for)	ORDER DENYING
	Approval of an Agreement with Georgetown)	APPROVAL OF
	County Water and Sewer District for Bulk)	CONTRACT
	Sewer Collection Services.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition of Carolina Water Service, Inc. (CWS or the Company) for approval of an agreement with the Georgetown County Water and Sewer District for bulk service collection from the Lincolnshire and Whites Creek Subdivisions' (collectively LWC) sewerage collection facilities located in Georgetown County, South Carolina.

Pursuant to the instructions of the Commission's Executive Director, the Company published a Notice of Filing in newspapers of general circulation in the Company's service area, and furnished a copy of the Notice to each affected customer. The Company furnished affidavits to show that it had complied with the instructions of the Executive Director. Petitions to Intervene were filed by the Consumer Advocate for the State of South Carolina (the Consumer Advocate) and the South Carolina Department of Health and Environmental Control (DHEC).

A night hearing on the matter was held on March 29, 2001 in Georgetown, South Carolina, so that the affected members of the public could express their views on the matter.

A hearing was also held in the offices of the Commission at 101 Executive Center Drive, Columbia, South Carolina on April 5, 2001 at 10:30 AM. The Honorable William Saunders, Chairman, presided at both hearings. On April 5, 2001, the Company was represented by William F. Austin, Esquire, and E. Crosby Lewis, Esquire. CWS presented the testimony of David Carter, Robert G. Burgin, Jr., and Gary D. Shambaugh. The Consumer Advocate was represented by Elliott F. Elam, Esquire, and DHEC was represented by Samuel L. Finklea, III, Esquire. Neither the Consumer Advocate, nor DHEC presented any witnesses. The Commission Staff (the Staff) was represented by F. David Butler, General Counsel. The Staff presented the testimony of Charles A. Creech.

CWS first presented the testimony of David Carter, Vice-President of Utilities, Inc., who presented the extensive background and history of the case. According to Carter, CWS has been providing retail sewer service to the LWC areas for approximately twenty-five (25) years. In the early 1970's, comprehensive area wide wastewater management plans were developed, which shall herein be referred to as 208 Plans. The 208 Plans provide information on any activity that can affect water quality. The part of the 208 Plan addressing wastewater collection and treatment facilities is known as the 201 Facilities Plan.

The LWC facilities are located within the Waccamaw Regional Planning and Development Council's (Waccamaw's) areawide wastewater management plan. In the

original 201 Plan for the City of Georgetown, the LWC wastewater treatment plant was to be eliminated, and the LWC collection system's wastewater was to be sent to the City of Georgetown for treatment at its wastewater treatment plant. A new 201 Plan was proposed in 1988. Based on the 201 and 208 Plans, DHEC added a condition to the LWC wastewater treatment plant's National Pollutant Discharge Elimination System Permit (NPDES Permit) that required CWS to interconnect with the regional system once it became available. In 1992, to eliminate the DHEC interconnection condition, CWS formally requested Waccamaw to amend the 208 Plan to allow the LWC wastewater treatment plant to be upgraded and to remain in operation; however, this amendment request was never acted upon. In 1993, CWS and DHEC entered into a Consent Order in which CWS obligated itself to negotiate with the Georgetown County Water and Sewer District (the District) for the purpose of reaching an agreement that would allow CWS (either through conveyance or bulk service) to interconnect its LWC collection system with the District's regional line. According to Carter, during these negotiations, CWS offered to give the LWC system to the District at no cost, and when this proposal was rejected, further proposed to pay to the District \$100,000 to take the system. The District rejected these offers and demanded that CWS give it the system and \$150,000, or accept its bulk service proposal. CWS was unable to reach an agreement with the District, and DHEC issued an administrative order, which CWS contested. Further, according to Carter, during 2000, the DHEC Board issued an Order that CWS is currently appealing to the circuit court.

Robert G. Burgin, Jr. also testified for CWS. Burgin noted that the 208 Plan amendment called for the elimination of the Lincolnshire/Whites Creek wastewater treatment plant owned by CWS by allowing for the connection of the LWC collection facilities to the District's system. Burgin stated that, in his opinion, the LWC wastewater treatment plant could be upgraded to meet the stream standards that he believes would be imposed by DHEC for less capital expense and operation costs than those that would be associated with the connection of the LWC facilities to the District's system for wholesale sewer service. The upgrade would allow CWS to serve its existing customers, and also allow for new customers, in Burgin's opinion.

Burgin noted that CWS did not directly agree to participate in the 208 Plan. Burgin states that the original estimated fees and volume charges, though slightly higher were thought to be affordable. CWS did accept a modification to the NPDES permit that called for connection to the 208 Plan's regional system in 1988, however, Burgin notes that CWS could not have anticipated that much higher rates would be proposed by the District than the fees proposed by the City of Georgetown in the original 208 Plan. CWS states a belief, through Burgin, that the original economic analysis proposing that the LWC facilities be connected to the City of Georgetown in the original 208 Plan was flawed, and the analysis should have provided that CWS continue operation of the LWC wastewater treatment plant. CWS also believes that the 208 Plan was amended improperly in 1988, in that no new economic analysis was completed to justify revising the plan to allow for the elimination of the LWC treatment plant and the transportation of the LWC customers' wastewater to the District, instead of the City of Georgetown.

According to Burgin, CWS has taken all actions available to comply with its NPDES Permit, including a request to DHEC to upgrade the LWC wastewater facility. Further, CWS has apparently endeavored, since 1988, to get permission to upgrade the facility so as to stay in compliance with its permit. DHEC has denied these requests.

Burgin also discusses the matter of infiltration and inflow associated with the LWC system, and states that these are not excessive, given the age of the sewer collection system. However, CWS is currently planning to install manhole cover inserts in all of the manholes in the system to reduce cover leakage due to surface water ponding over the manholes.

Gary D. Shambaugh, Executive Vice President of AUS Consultants, also testified for CWS. In this proceeding, AUS was retained by CWS to review the reasonableness of the proposed wholesale rate to be charged to the Company's Lincolnshire/Whites Creek System customers as a result of the proposed agreement between CWS and the District. Shambaugh reviewed three options: 1) Conveying the wastewater directly to the City of Georgetown's wastewater treatment facility; 2) Conveying the wastewater to the Georgetown County Water & Sewer District; and 3) the rehabilitation of Carolina Water Service's treatment plant.

With regard to Option 1, the original plan was for CWS to remove their wastewater treatment plant from service and convey the wastewater generated in the LWC area directly to the City of Georgetown's wastewater treatment facility. Shambaugh's analysis revealed that the total monthly cost increase to the LWC

customers would be \$64.30. This option was eliminated with the revision of the 201/208 Plan.

As regards Option 2, the revised 201/208 Plan designates the District as the regional provider of wastewater collection and transportation for treatment. Under the Plan, the City of Georgetown will still provide the wastewater treatment. The District requires a connection fee of \$178,215, which equates to approximately \$675 per current connected customer. Based on CWS' current tariff, this charge would be the direct responsibility of each Lincolnshire/Whites Creek customer. In addition, all wastewater flow would be treated at an average cost of approximately \$1.95 per 1,000 gallons. Each customer would also pay a monthly availability fee of \$5.74 and the Company would pay a monthly service charge of \$4.18 to the District. The monthly cost to each consumer would be \$50.96. In addition, if amortized, the cost of the recovery of the interconnection and customer connection fees will increase each customer's monthly bill to approximately \$69.54.

Shambaugh testified also about Option 3, the rehabilitation of the CWS treatment plant. Shambaugh maintains that Option 3 is the least-cost alternative. The witness states CWS' belief that an upgrade of the current facilities will solve the overall capacity and the treatment related problems. Shambaugh states that it appears that rejections of the alternative by regulatory agencies have not considered the economic impact to CWS' customers. Additional capacity will be available and all discharge permit requirements can apparently be satisfied as the result of the proposed upgrades, Shambaugh notes. The fixed capital cost of the upgrades, which will provide for tertiary treatment, will be in the

range of \$270,000. The cost of the fixed capital upgrades will be absorbed by CWS' statewide customer base through that company's statewide tariff. Thus, the cost to each customer in the LWC area will be approximately \$0.263 per month.

It is also estimated that the cost of treatment will increase by \$1,796.60 per month. These costs will also be absorbed by CWS' entire customer base, therefore the LWC customers will pay an additional \$0.162 per month for the increased cost of operations.

Monthly statewide rates would increase by approximately \$.43 under Option 3. The current Commission-approved monthly rate for LWC customers and statewide is \$28.86. Shambaugh expresses the opinion that the customer rates generated by Option 2 are excessive and will create significant rate shock to the customers, and create financial instability for CWS. If Option 3 is adopted, the average customer's monthly bill will be \$29.29.

Shambaugh testified that the proposed Option 2 rates penalize the customers in the Lincolnshire/Whites Creek service area while providing no significant service benefit for the increased cost, and that he recommended that the agreement which contains these rates should be rejected as being unreasonable, unfair, unjust, and not in the public interest. Shambaugh further recommended that a modification to the 201/208 Plan be considered which would allow Option 3 to be employed as the desirable least-cost method for the continued wastewater service to the LWC area. The 201/208 Plan, according to Shambaugh, as it exists, is punitive to the Lincolnshire/Whites Creek customers to the benefit of the regional provider.

Charles A. Creech of the Commission Staff also testified. Creech recommended that this Commission not approve the contract between CWS and the District for the bulk treatment of wastewater service, because of the rate shock that would be imposed upon the customers in the LWC service area. If the contract was approved, an average monthly charge of \$52.59 would result, which is an increase of \$23.73 per month per customer. Creech stated his hope that the 208 Plan could be amended to allow the existing LWC sewer plant to be upgraded by CWS to meet DHEC standards, which would result in a lesser rate to CWS' customers.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Carolina Water Service, Inc. has been providing retail sewer service to the Lincolnshire and Whites Creek Subdivisions through a CWS treatment facility for approximately twenty-five (25) years. Testimony of Carter at 2.

2. Based on the 201 and 208 Plans, the South Carolina Department of Health and Environmental Control added a condition to the LWC wastewater treatment plant's NPDES Permit that required CWS to interconnect with the regional wastewater system once it became available. Testimony of Carter at 4.

3. In 1992, to eliminate the DHEC interconnection condition, CWS formally requested the governing authority, Waccamaw, to amend the 208 Plan to allow the LWC wastewater treatment plant to be upgraded and to remain in operation. This amendment was never acted upon. Id.

4. In 1993, CWS and DHEC entered into a Consent Order in which CWS obligated itself to negotiate with the Georgetown County Water and Sewer District for

the purpose of reaching an agreement that would allow CWS (either through conveyance or bulk service) to interconnect its LWC collection system with the District's regional line. Id.

5. No agreement was reached between CWS and the District. DHEC issued an administrative order on the matter, which has been appealed to the circuit court. Testimony of Carter at 4-5.

6. The rate that would be charged to the individual customers upon approval of a contract between CWS and the District for bulk service would be excessive and would cause "rate shock" among the people of the Lincolnshire and Whites Creek Subdivisions. The evidence in this case shows that if the contract was approved, an average monthly charge of \$52.59 would result, which is an increase of \$23.73 per month per customer. If the present CWS LWC wastewater facility was upgraded, monthly statewide rates would increase by approximately \$.43. Testimony of Creech at 1; Testimony of Shambaugh at 8.

7. 26 S.C. Regs. 103-541 states that no utility shall execute or enter into any agreement or contract with any person, firm, partnership, or corporation or any agency of the Federal, State or local government which would impact, pertain to, or effect said utility's fitness, willingness, or ability to provide sewer service, including but not limited to the collection or treatment of said sewerage, without first submitting said contract in form to the Commission and obtaining approval of the Commission. We find that the proposed contract before us at this time is a contract of the type requiring approval under this Commission regulation.

8. We find that approval of this contract would cause major “rate shock” among the people living in the Lincolnshire and Whites Creek Subdivisions of Georgetown County. Accordingly, approval of the contract is denied as being against the public interest of the citizens in these areas. It appears from the evidence that no appropriate financial analysis was carried out by any governmental agency prior to amending the 201/208 Plan to require connection of the CWS facility with the District. The financial consequences of approving this contract would be dire for the citizens living in the areas. It was clear from the testimony of the citizens at both the night hearing and the later hearing that said citizens could ill afford to pay the rates which would result from approval of the proposed contract. We cannot in good conscience approve a contract which would obviously cause such devastating economic effects on the target citizens, especially when an economically favorable solution to the situation is available.

9. Although we have no jurisdiction over the 201/208 Plan itself, we would urge the responsible governmental agencies to reexamine this matter, with the aim of amending the plan to allow CWS wastewater facility serving Lincolnshire and Whites Creek to be upgraded, and to remain in operation. Such a solution certainly comports with the economic needs of the citizens of those areas, and appears to be workable.

10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Chairman

ATTEST:

Executive Director
(SEAL)